

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

ENVIRONMENTAL ASSESSMENT REVIEW

<b>OFFICE/AREA:</b> Miles City Field Office	<b>DOI-BLM-MT-C020-2013-0076-EA</b>
	<b>DATE ENTERED:</b> 2/12/2013
<b>NAME:</b> Union Telephone Communications Use Lease MTM-105408 and Southeast Electric Amendment MTM-96026	<b>DATE DUE:</b> 2/19/2013
	<b>FUNDING:</b> Applicant
<b>LOCATION:</b> T. 8 S., R. 57 E., Section 10: SE¼NE¼ & E½SE¼, Carter County, Montana	<b>SERIAL #:</b> MTM-105408 MTM-96026

<b>ORIGINATOR DATE/INITIALS</b>	<b>TITLE</b>	<b>ASSIGNMENT</b>
Dalice Landers 2/12/13 <i>DDL</i>	Realty Specialist	Project Coordinator and Lands and Realty

<b>REVIEWERS</b>	<b>TITLE</b>	<b>ASSIGNMENT</b>	<b>DATE/INITIALS</b>
Bobby Baker	Wildlife Biologist	Wildlife/T&E	3/4/13 BJB
Brenda Witkowski	NRS (Weeds)	Weeds	2/13/2013 BSW
Doug Melton	Archaeologist	Cultural/Paleo	03/03/13 DM Cultural Report MT-020-13-096
Dena Lang	Outdoor Rec. Planner	Wilder/VRM/Rec.	3/5/2013 DJL
Chris Robinson	Hydrologist	Hydrology/Riparian	2/27/2013 CWR
Melissa Schroeder	Soil Scientist	Soils	02.28.2013 MJS

  
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ENVIRONMENTAL COORDINATOR

3/12/2013  
DATE

  
\_\_\_\_\_  
SUPERVISORY LAND USE SPECIALIST

3/12/2013  
DATE

## ENVIRONMENTAL ASSESSMENT

**DOI-BLM-MT-C020-2013-0076-EA**

**Serial Numbers:** MTM-105408  
MTM-96026

### **PROPOSED ACTION/TITLE TYPE:**

Union Telephone Communications Use Lease MTM-105408  
Southeast Electric Cooperative, Inc. ROW Amendment MTM-96026

### **LOCATION OF PROPOSED ACTION:**

T. 8 S., R. 57 E., Section 10: SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ , Carter County, Montana, PMM

**PREPARING OFFICE:** Miles City Field Office

**APPLICANT:** Union Telephone Company

**DATE OF PREPARATION:** February 12, 2013

**CONFORMANCE WITH APPLICABLE LAND USE PLAN:** This proposed action is in conformance with the Powder River Resource Area RMP/EIS ROD which was approved on March 15, 1985. On page 4 of the Record of Decision, it states that "Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

**PURPOSE AND NEED:** There are no wireless telecommunications services in the area. Union Telephone Company proposes to install a wireless telecommunications tower on Federal land. Union Telephone feels there is a need for wireless telephone service, emergency E911 service, and data transfer service to Highway 212 and surrounding areas. Southeast Electric would also have to amend their right-of-way MTM-96026 for the overhead electric line in order to supply electricity to the communication site.

**PROPOSED ACTION:** The proposed actions are to issue Union Telephone Company a communications use lease MTM-105408 and to issue Southeast Electric Cooperative, Inc. an amendment to existing right-of-way MTM-96026 to supply the site with electricity. The communications use lease and amendment would be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 10, T. 8 S., R. 57 E., Carter County, Montana. The existing access road to the site would be located in SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 10, T. 8 S., R. 57 E., Carter County, Montana. The site would be located just down the hill from the Alzada Communication Site where Carter County and Ellsworth Air Force Base have their communication sites. The site would be 60 feet long, 60 feet wide, and consist of 0.08 acres, more or less. The road would be 2,819.85 feet long, 20 feet wide, and consist

of 1.23 acres, more or less. The total would be 1.31 acres, more or less. The amendment for Southeast Electric would be 200 feet long, 30 feet wide, and consist of 0.14 acres, more or less.

For two years, Union Telephone plans to use a temporary Cellular on Wheels (COW) tower which would be 84 feet in height. For two years, there would be no blading or grading on the site. Construction activities would be in the spring or summer of 2013. After the two years, Union Telephone proposes to install a permanent tower. The tower would be an 80-foot self-supporting lattice tower. Also located on the site would be 8 foot by 100 foot equipment building, an 8 foot by 10 foot generator building, a 500-gallon propane tank, and a chain link fence around the 60 foot by 60 foot enclosure. Blading and grading would be needed to improve the access road and the enclosure.

These facilities would be operated on a year-around basis. Construction activities would cease if precipitation occurs and would not resume until the ground is sufficiently dry to eliminate surface damage by the construction equipment. No known hazardous materials would be used during construction or any time on the communication site. Once constructed, the facilities would require minimal expenditures for operation and maintenance. Periodic inspections would be conducted by Union Telephone and Southeast Electric to ensure their facilities' structural integrity. Construction and use would be monitored by the BLM.

Termination activities for the Federal surface area would be conducted in much the same manner as construction activities. Access would be available along the same route. Their above-ground appurtenances would be removed and disposed of in a licensed landfill. Upon termination, the area would be scarified and reseeded with an appropriate seedmix.

The communications use lease and the right-of-way amendment would be issued pursuant to 43 CFR 2800 and 2860, Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761), and in accordance with the April of 1982 Memorandum of Understanding between the Bureau of Land Management and the Montana Associated Utilities for the construction, operation, maintenance, and termination of the proposed project. The communications site lease and right-of-way amendment would be subject to the terms and conditions in 43 CFR 2800 and 2860, the terms and conditions and stipulations specified below, and mitigations set forth in the application and plan of development. The term requested for the communications use lease is 30 years. Union Telephone Cooperative and Southeast Electric would be subject to cost recovery fee, but would be exempt from rental because they are a REA affiliate.

The standard stipulations for cultural and/or paleontological resource protection and toxic substances would be made a part of the communications use lease and the amendment, as would the standard stipulation that all activities associated with the communications use lease would be conducted within the authorized limits of the lease. The applicants shall be responsible for weed control on disturbed areas within the limits of the lease. There would be no construction or routine maintenance when the soils are too wet. The holders or the holders' successors in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto. The applicants would be bound to the standards of the "Suggested Practices for Avian Protection on Power Lines". The communications use lease and amendment would be subject to mitigations set forth in the application and plan of

development. Union Telephone would not remove vegetation until the site became permanent. The appropriate seedmix would be used for reclamation. The holders shall coordinate with the parties holding authorized rights on the adjacent and affected lands. Union Telephone would be bound to all the attached stipulations that pertain to communications sites. The following timing stipulation would apply to the construction of the permanent site, but not to the temporary COW: Construction activity and surface disturbance will be prohibited during the period from April 15 to July 15 for the protection of migratory birds.

**ALTERNATIVE 1 - NO ACTION:** The no action alternative would be not to allow Union Telephone to obtain a communications use lease in the area so therefore Southeast Electric would not need to amend their right-of-way.

**AFFECTED ENVIRONMENT:**

The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

<b>Mandatory Item</b>	<b>Potentially Impacted</b>	<b>No Impact</b>	<b>Not Present On Site</b>
Threatened and Endangered Species			X
Floodplains			X
Wilderness Values			X
ACECs			X
Water Resources		X	
Air Quality		X	
Cultural or Historical Values		X	
Prime or Unique Farmlands			X
Wild & Scenic Rivers			X
Wetland/Riparian			X
Native American Religious Concerns			X
Wastes, Hazardous or Solids			X
Invasive, Nonnative Species			X
Environmental Justice		X	

*The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: forestry, riparian, wilderness, wild horse/burro, fire, geology, minerals, noise, weeds, and soils.*

**Cultural:** The area around the communications site has been inventoried in 1983 and 2005. No cultural resources have been observed in the vicinity of the communications site (See BLM Cultural Resources Report MT-020-13-096 for additional information). The proposed action would have no effect to historic properties. No paleontological localities have been reported from the section containing the proposed action. The proposed action is in the Cretaceous-age Carlile Shale. This formation has a potential fossil yield classification (PFYC) rating of 3a. This means that although vertebrate fossils have been reported from the formation, they do not occur on a regular basis. No paleontological localities have been reported from the project area. Should cultural or paleontological resources be found during construction, they would be protected through the

cultural/paleontological stipulation attached to the communications use lease.

Hydrology: The proposed project is located within the Willow Creek (HUC 1011020105) Watershed. Drainages in the area are largely ephemeral in nature and only flow as a result of snowmelt or precipitation events. Peak flows generally occur March through May, resulting from melting snow and rainfall. Intense flows of short duration occur throughout the summer following thunderstorms. No streams within the watershed are MT-DEQ listed under §303(d) of the Clean Water Act as impaired.

Lands/Realty: The proposed project is located on Public Domain. There are two existing communications use leases located near the site. MTM-022638A is issued to Carter County and MTM-95015 is issued to the 28<sup>th</sup> Civil Engineering Squadron from Ellsworth Air Force Base. There are two existing BLM-issued rights-of-way in the area of the proposed project. MTM-59032 is issued to the Range Telephone Cooperative, Inc. for an underground phone line. MTM-96026 is issued to Southeast Electric Cooperative, Inc. for an overhead 7.2 kV power line.

Vegetation: The principal forage species are sagebrush, Nuttall Saltbush, western wheatgrass, and blue grama. The distinguishing species of grass are thickspike wheatgrass streambank sheatgrass and alkali sacaton. Other common grasses are Sandberg bluegrass, bluebunch wheatgrass, plains reedgrass, green needlegrass, needle-and-thread, and Indian ricegrass. The distinguishing species of shrubs are Nuttall saltbush and sagebrush. Other common shrubs are plains pricklypear, black greasewood, and broom snakeweed. The distinguishing species of forbs are scurfless saltbush, biscuitroot, Nuttall monolepis, wild onion, wildbuckwheat, and scarlet globemallow. A common sedge is threadleaf sedge.

Visual Resource Management (VRM): The proposed project lies within a VRM Class II zone that lies along Highway 212. The objective of this class is to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape. There is an existing overhead powerline in the area.

Wildlife: Habitat within this area supports game species including mule deer, pronghorn, sage grouse, sharp-tailed grouse, and waterfowl. A diversity of non-game species including songbirds, raptors, small mammals, and others are also expected. The proposed action is also located within identified mule deer winter range. No Threatened or Endangered species utilize this area.

The project is also located within the “Preliminary Priority Habitat” designation for sage grouse as identified in Instruction Memorandum No. 2012-043 (BLM, 2011). Three documented sage grouse lek/lek complexes exist within 2.39 miles of this location. Lek CA-034 is located 1.8 miles to the northeast, and was documented with 3 in attendance during one survey in 2011. A lek complex of three documented lek locations near each other (CA-31, 41, 128) exists approximately 2.39 miles to the northwest. The most recent high male count at this lek includes 13 grouse documented during one survey in 2006. No birds were observed in attendance in 2011. Lek CA-084 is located approximately 2.3 miles south of the location, across Highway 212. The most recent high male count at this lek includes six males in 2006.

The existence of Highway 212, a tank battery and pumping station, a large compressor station, and an existing communications tower and associated facilities all adjacent to each other would be expected to minimize preferred habitat for most species of wildlife within this area. However, habitat conditions are relatively undisturbed proceeding north from the location.

## **ENVIRONMENTAL IMPACTS:**

### **DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:**

Hydrology: Local water quality may be affected by a temporary increase in sediment from construction activities until vegetation is reestablished. The effects on the watershed would likely not be noticeable due to the distance of construction activities from the nearest drainages and the presence of vegetated buffers.

Visual Resource Management (VRM): Short term impacts will be apparent during construction activities. They will construct a new tower and then remove the old tower probably about 15 feet from each other. The new tower will create the same visual intrusion as the old tower with long term impacts on the visual viewshed in the forefront of the casual observer from Highway 212.

Wildlife: The project may displace some wildlife species during construction activities. As stated, habitat conditions in this area are marginalized due to the amount of existing disturbance. Because of likely non-preferred quality habitats, displacement type impacts would be expected to be short-lived or minimal. If wildlife is present in the immediate area it is expected that they have become acclimated to the existing disturbances. Timing of activities restrictions normally applied for sage grouse and mule deer for these types of projects in undisturbed habitats will also not be applied due to lack of preferred habitat conditions and existing disturbances. This proposed action does have the potential to “take” migratory birds, nests, and eggs from ground disturbing activities; therefore, potential impacts to nesting migratory birds from ground disturbing activities will be minimized by applying conditions of approval to ensure accordance with the migratory bird treaty act (MBTA).

### **DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:**

There would be an impact to the wireless telecommunications subscribers in the area if we did not allow Union Telephone Cooperative to obtain a communications use lease to install a new tower near the existing Alzada Communication Site.

## **CUMULATIVE IMPACTS:**

There will be no other cumulative impacts from this project in addition to those identified in Powder River Resource Management Plan completed in 1985. A detailed discussion of these cumulative impacts can be found on Pages 107 to 124 of the Powder River EIS.

## **MITIGATION MEASURES/REMARKS:**

The communications use lease and right-of-way amendment would be issued under the authority of Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761), and subject to the terms and conditions in 43 CFR 2800 and 2860, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

### **Stipulations for MTM-105408 – Union Telephone Company, Inc.**

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
2. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
3. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
4. The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within six months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to insure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of seven (7) days prior to seeding of the project.

**Seed Mixture** (clayey) - Western wheatgrass must be included in the mix. Thickspike wheatgrass may be substituted only when western wheatgrass is unavailable. The combination for the seed mixture must include at least four of the following species including Western wheatgrass:

<i>Species of Seed</i>	<i>(Variety)</i>	<i>Common Name</i>	<i>Pounds/acre *(PLS)</i>
<u>Pascopyrum smithii</u>	(Rosanna)	Western wheatgrass	3.00
<u>Pseudoroegneria spicata</u>	(Goldar)	Bluebunch wheatgrass	2.00
<u>Stipa viridula</u>	(Lodom)	Green needlegrass	2.00
<u>Elymus trachycaulus</u>	(Pryor)	Slender wheatgrass	2.00
<u>Stipa comata</u>		Needleandthread	1.00
<u>Bouteloua curtipendula</u>		Sideoats Grama	2.00
<u>Schizachyrium scoparium</u>		Little bluestem	2.00

*\*Pure Live Seed (PLS) formula: % of purity of seed mixture times % germination of seed mixture = portion of seed mixture that is PLS.*

5. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
6. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
7. The holder and the holder's subgrantees shall operate within the parameters of the Alzada Site Management Plan (completed in 2006).
8. The United States will not be held liable for any damage to the communication facility caused by the general public or as a result of fire, wind, or other natural disasters or as a result of silvicultural practices, timber harvesting operations, or other actions stemming from the normal land management activities of the Bureau of Land Management.
9. The holder shall not allow the operation of any electronic equipment in the building or on the site unless and until the user has obtained a license from the Federal Communications Commission or the Interdepartmental Radio Advisory Committee.



10. Each electronic type station installation authorized by this grant shall be operated in conformity with the requirements of the Federal Communications Commission or, in the case of Federal Government installation operations, in accordance with the Interdepartmental Radio Advisory Committee agreements.
11. The holder may authorize or subgrant to third parties the right to use the holder's facilities upon a filing of a grant amendment application and a finding by the authorized officer that the amendment is acceptable. Third party subgrant holders shall be required to comply with the requirements as presented herein as well as those stipulations imposed by the authorized officer upon approval of the grant amendment.
12. The holder agrees not to install or allow the installation of any other radio electronic type equipment not specified in this grant or amendment to this grant on or within the structure or on the premises authorized and covered by this grant, without advance notification and written approval of the authorized officer.
13. The holder shall furnish a listing of, or other information pertaining to, all occupants of the facility upon request of the authorized officer.
14. The Bureau of Land Management reserves the right to authorize joint use by other electronic communication users of the site, together with the roads and the power, telephone and other auxiliary utility service lines installed and operated by the holder, upon payment by such users to the holder of a just and equitable portion of the costs of installation, maintenance and operation; provided that such joint use will conform to sound engineering practices.
15. All installations, antenna supports, etc., shall be constructed and maintained in a neat and safe condition in accordance with good engineering practices as accepted by industry and applicable laws. Antenna supports shall conform to the installation specifications of the tower manufacturer. Any variance from these standards shall be allowed only to the extent required because of local terrain or obstructions at the site and all variances shall conform to good engineering practice.
16. Installations shall include an effective lightning ground in accordance with the "cone of protection" theory. All electrical outlets shall be of the three-conductor grounding receptacle type. All electrical or electronic equipment cabinets shall be properly connected to the system ground. Structures shall be designed for maximum lightning protection through bonding and a grounding system.
17. The holder shall not implement or allow a subgrantee to implement any changes in or additions to the authorized operating frequencies, types of emission, band widths, radio frequency power outputs, class of service, types of antenna, or named Federal Communications Commission licensees without providing advance notification to, and receiving written approval from, the authorized officer.
18. The holder shall at all times operate its radio-electronic equipment in such a manner so as not to cause interference with radio-electronic operations of existing users in the vicinity. If such

interference results from holder's operations, holder will promptly, at its own expense, modify the equipment and operations, or shut down if necessary to eliminate or reduce the interference to the satisfaction of the Federal Communications Commission and/or the authorized officer.

19. All electric facilities, equipment, and their installation shall conform to the current National Electrical Safety Code and applicable laws and all regulations.

20. Construction activity and surface disturbance will be prohibited during the period from April 15 to July 15 for the protection of migratory birds.

21. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

#### **Stipulations for MTM-96026 – Southeast Electric Cooperative, Inc. Amendment**

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way and the temporary use permit. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3-4 inches deep, the soil shall be deemed too wet to adequately support construction equipment.

4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.

5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a

result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Powerlines," Raptor Research Foundation, Inc., 1981, as amended in 1996. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.

7. Construction activity and surface disturbance will be prohibited during the period from April 15 to July 15 for the protection of migratory birds.

8. Construction holes left open overnight shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

9. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

10. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands

11. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

#### **CONSULTATION/COORDINATION:**

Chris Manley, Land Agent, Union Telephone Cooperative, Inc.  
Kevin Vogel, Land Agent, 28<sup>th</sup> Civil Engineer Squadron, Ellsworth Air Force Base

#### **LIST OF PREPARERS:**

Doug Melton, Archaeologist  
Bobby Baker, Wildlife Biologist  
Dena Lang, Outdoor Recreation Planner  
Melissa Schroeder, Soil Scientist  
Chris Robinson, Hydrologist  
Brenda Witkowski, Natural Resource Specialist (Weeds)  
Dalice Landers, Realty Specialist





**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
FINDING OF NO SIGNIFICANT IMPACT**

**UNION TELEPHONE COMMUNICATIONS USE LEASE MTM-105408  
AND SOUTHEAST ELECTRIC ROW AMENDMENT MTM-96026  
DOI-BLM-MT-C020-2013-0076-EA**

**BACKGROUND**

The origin of the environmental assessment was due to a request from Union Telephone Cooperative, Inc. to install a communication tower near the Alzada Communication Site in order to supply wireless telecommunications services to customers in or near the area. Southeast Electric would need to amend their right-of-way in the area in order to supply the communication site with electricity. There would be not guys or riggers.

**FINDING OF NO SIGNIFICANT IMPACT**

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0076-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Powder River Resource Management Plan;
- (2) The Proposed Action is in conformance with the Record of Decision for the Powder River Resource Management Plan; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR '1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

**Context**

The proposed action is a site-specific action which would occur in Carter County in Montana which is designated as available for acceptance of ROW proposals in the Powder River RMP. The RMP anticipated that ROW applications would continue to be approved in areas where rights-of-way are allowed and stipulations from the BLM Manual 2800 and 2860 will be used to protect resource values. The proposed action is in accordance with the Powder River RMP.

Under the Proposed Action, communication use lease MTM-105408 would be issued to Union Telephone Cooperative, Inc. to allow them to install a communication tower and right-of-way amendment to MTM-96026 would be issued to Southeast Electric Cooperative, Inc. on the following Federal land (PD Land):

T. 8 S., R. 57 E., Section 10: SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ , Carter County, Montana, PMM.

These facility will be authorized with a communications use lease and a right-of-way will be amended under Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761). The communications use lease will also include the existing road up to the tower. The proposed project will be constructed, used, maintained, and terminated in conformance with the applicant's plan of development which was submitted with their applications. Union Telephone and Southeast Electric will be subject to cost recovery, but not rental because they are a REA affiliate. The communications use lease and the amendment will be subject to the terms and conditions in 43 CFR 2800 and 2860, the plan of development and application, and the stipulations listed below.

### **Intensity**

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

**1. Impacts that may be both beneficial and adverse.** The effects from the proposed project are described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as communications use lease stipulations. The EA also disclosed beneficial impact to all the customers in the area that may want or need to use the wireless communication services. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Powder River Resource Area Management Plan.

**2. The degree to which the proposed action affects public health and safety.** No aspect of the proposed action would have an effect on public health and safety.

**3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** There are no known historic or cultural resource sites that would be affected by the proposed action. Previous inventories have not recorded cultural resources in the project location. The proposed project would have no effect to historic properties (see report listed in the EA). There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas that would be affected by the project.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.** No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action. “Highly controversial” in the context of 40 CFR 1508.27(b)(4), refers to substantial disagreement within the scientific community about the environmental effects of a proposed action. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The analysis has not shown that there would be any unique or unknown risks to the human environment.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Powder River RMP.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Powder River RMP.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.** The proposed action will not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historic resources.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.** There are no threatened or endangered species or habitat in the area of the proposed action.

**10. Whether the action threatens a violation of Federal, State, Tribal or Local law or requirements imposed for the protection of the environment.** The proposed action does not threaten to violate any Federal, State, Tribal, or local law. Furthermore, the project is consistent with applicable land management plans, policies, and programs.



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Todd D. Yeager  
Field Manager

3/12/2013

Date





**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
RECORD OF DECISION**

**UNION TELEPHONE COMMUNICATIONS USE LEASE MTM-105408  
AND SOUTHEAST ELECTRIC ROW AMENDMENT MTM-96026  
DOI-BLM-MT-C020-2013-0076-EA**

**DECISION**

It is my decision to select the Proposed Action Alternative as described in the EA for Union Telephone to install a communication tower and for Southeast Electric to install an overhead electric line. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the issuance of a Federal Land Policy and Management Act (FLPMA) communications use lease and a right-of-way amendment. The selected alternative is in conformance with the Powder River Resource Management Plan.

**ALTERNATIVES**

In addition to the selected alternative, the EA considered the "No Action" alternative, which would carry out no management activities at this time.

**RATIONALE FOR SELECTION**

The purpose of the action is to allow Union Telephone to install communication tower and Southeast Electric to install an overhead powerline and use the existing access road on the following Federal land (PD Land):

T. 8 S., R. 57 E., Section 10: SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ , Carter County, Montana, PMM.

These actions will be authorized by the issuance of a Federal Land Policy and Management Act (FLPMA) communications use lease to Union Telephone to install a communication tower and a right-of-way amendment to Southeast Electric to install an overhead powerline. The proposed actions are in conformance with the Powder River RMP/EIS. These proposed actions will provide all customers in the area with wireless telecommunications services for updated security and safety capabilities.

## **CONSULTATION AND COORDINATION**

The following BLM specialists were consulted: Doug Melton, Archaeologist; Bobby Baker, Wildlife Biologist; Dena Lang, Outdoor Recreation Planner; Melissa Schroeder, Soil Scientist; Chris Robinson, Hydrologist; Brenda Witkowski, Natural Resource Specialist (Weeds); and Dalice Landers, Realty Specialist. Kevin Vogel was the contact from 28<sup>th</sup> Civil Engineer Squad from Ellsworth Air Force Base. Chris Manley from Union Telephone was the site developer. The Union Telephone Cooperative, Inc. communication use lease EA and Southeast Electric ROW amendment EA (DOI-BLM-MT-C020-2013-0076-EA) was made available online via the Miles City Field Office NEPA log.

## **IMPLEMENTATION**

Once the EA FONSI and Decision Record are approved, a FLPMA communications use lease will be issued to Union Telephone Cooperative, Inc. and FLPMA ROW amendment will be issued to Southeast Electric, as described in the subject EA with the identified stipulations included as part of the lease and the amendment. This decision will be effective immediately. Actions may begin immediately in accordance with any restrictions or constraints imposed by the lease, the ROW amendment, and stipulations. The lease and the ROW amendment will be monitored for construction, use and termination.

## **ADMINISTRATIVE REVIEW OPPORTUNITIES**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If the appellant wishes to file a petition (request) pursuant to regulations 43 CFR 2801.10 for a stay (suspension) of the effectiveness of this decision during the time the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If the appellant requests a stay, they have the burden of proof to demonstrate that a stay should be granted.

### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,

- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.



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3/12/2013

#### **MITIGATION MEASURES/REMARKS:**

The right-of-way grant would be issued under the authority of Title V of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2776; 43 U.S.C. 1761), and subject to the terms and conditions in 43 CFR 2800 and 2860, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

#### **Stipulations for MTM-105408 – Union Telephone Company, Inc.**

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
2. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
3. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
4. The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There shall be no primary or secondary noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s) and within six months prior to purchase. Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed shall be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture shall be evenly and uniformly planted over the disturbed area. (Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder shall take appropriate measures to insure this does not occur.) Where drilling is not possible, seed shall be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The authorized officer is to be notified a minimum of seven (7) days prior to seeding of the project.

**Seed Mixture** (clayey) - Western wheatgrass must be included in the mix. Thickspike wheatgrass may be substituted only when western wheatgrass is unavailable. The combination for the seed mixture must include at least four of the following species including Western wheatgrass:

<i>Species of Seed</i>	<i>(Variety)</i>	<i>Common Name</i>	<i>Pounds/acre *(PLS)</i>
<u>Pascopyrum smithii</u>	(Rosanna)	Western wheatgrass	3.00
<u>Pseudoroegneria spicata</u>	(Goldar)	Bluebunch wheatgrass	2.00
<u>Stipa viridula</u>	(Lodom)	Green needlegrass	2.00
<u>Elymus trachycaulus</u>	(Pryor)	Slender wheatgrass	2.00
<u>Stipa comata</u>		Needleandthread	1.00
<u>Bouteloua curtipendula</u>		Sideoats Grama	2.00
<u>Schizachyrium scoparium</u>		Little bluestem	2.00

*\*Pure Live Seed (PLS) formula: % of purity of seed mixture times % germination of seed mixture = portion of seed mixture that is PLS.*

5. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

6. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized

officer concurrent with the filing of the reports to the involved Federal agency or State government.

7. The holder and the holder's subgrantees shall operate within the parameters of the Alzada Site Management Plan (completed in 2006).

8. The United States will not be held liable for any damage to the communication facility caused by the general public or as a result of fire, wind, or other natural disasters or as a result of silvicultural practices, timber harvesting operations, or other actions stemming from the normal land management activities of the Bureau of Land Management.

9. The holder shall not allow the operation of any electronic equipment in the building or on the site unless and until the user has obtained a license from the Federal Communications Commission or the Interdepartmental Radio Advisory Committee.

10. Each electronic type station installation authorized by this grant shall be operated in conformity with the requirements of the Federal Communications Commission or, in the case of Federal Government installation operations, in accordance with the Interdepartmental Radio Advisory Committee agreements.

11. The holder may authorize or subgrant to third parties the right to use the holder's facilities upon a filing of a grant amendment application and a finding by the authorized officer that the amendment is acceptable. Third party subgrant holders shall be required to comply with the requirements as presented herein as well as those stipulations imposed by the authorized officer upon approval of the grant amendment.

12. The holder agrees not to install or allow the installation of any other radio electronic type equipment not specified in this grant or amendment to this grant on or within the structure or on the premises authorized and covered by this grant, without advance notification and written approval of the authorized officer.

13. The holder shall furnish a listing of, or other information pertaining to, all occupants of the facility upon request of the authorized officer.

14. The Bureau of Land Management reserves the right to authorize joint use by other electronic communication users of the site, together with the roads and the power, telephone and other auxiliary utility service lines installed and operated by the holder, upon payment by such users to the holder of a just and equitable portion of the costs of installation, maintenance and operation; provided that such joint use will conform to sound engineering practices.

15. All installations, antenna supports, etc., shall be constructed and maintained in a neat and safe condition in accordance with good engineering practices as accepted by industry and applicable laws. Antenna supports shall conform to the installation specifications of the tower manufacturer. Any variance from these standards shall be allowed only to the extent required because of local

terrain or obstructions at the site and all variances shall conform to good engineering practice.

16. Installations shall include an effective lightning ground in accordance with the “cone of protection” theory. All electrical outlets shall be of the three-conductor grounding receptacle type. All electrical or electronic equipment cabinets shall be properly connected to the system ground. Structures shall be designed for maximum lightning protection through bonding and a grounding system.

17. The holder shall not implement or allow a subgrantee to implement any changes in or additions to the authorized operating frequencies, types of emission, band widths, radio frequency power outputs, class of service, types of antenna, or named Federal Communications Commission licensees without providing advance notification to, and receiving written approval from, the authorized officer.

18. The holder shall at all times operate its radio-electronic equipment in such a manner so as not to cause interference with radio-electronic operations of existing users in the vicinity. If such interference results from holder’s operations, holder will promptly, at its own expense, modify the equipment and operations, or shut down if necessary to eliminate or reduce the interference to the satisfaction of the Federal Communications Commission and/or the authorized officer.

19. All electric facilities, equipment, and their installation shall conform to the current National Electrical Safety Code and applicable laws and all regulations.

20. Construction activity and surface disturbance will be prohibited during the period from April 15 to July 15 for the protection of migratory birds.

21. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

#### **Stipulations for MTM-96026 – Southeast Electric Cooperative, Inc. Amendment**

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

2. The holder shall be responsible for weed control on disturbed areas within the limits of the right-

of-way and the temporary use permit. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

3. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3-4 inches deep, the soil shall be deemed too wet to adequately support construction equipment.

4. The holder shall conduct all activities associated with the construction, operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.

5. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

6. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Powerlines," Raptor Research Foundation, Inc., 1981, as amended in 1996. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.

7. Construction holes left open overnight shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

8. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.

9. The holder shall coordinate with the parties holding authorized rights on the adjacent and



affected lands

10. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.